

Doc. # 5196
ADOPTED 6/29/89

Text Amendment Application No.
Boston Redevelopment Authority
North Station Economic Development
Area

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

The Boston Redevelopment Authority petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956 as amended, as follows.

By inserting, after Article 38, the following article:

**ARTICLE 39
NORTH STATION ECONOMIC DEVELOPMENT AREA**

SECTION 39-1. Statement of Purpose, Goals and Objectives. The purpose of this article is to establish the zoning regulations for the comprehensive plan for the North Station Economic Development Area ("EDA") as required by the provisions of the Downtown Interim Planning Overlay District, Article 27D of this code. The goals and objectives of this article and the North Station EDA Plan are to direct downtown development in a way that promotes balanced growth for Boston; to channel growth away from congested areas and toward underutilized sites; to create a gateway to the city by rail and highway from the north; to create a mixed-use district which includes office, retail, research and development, biomedical, institutional, residential, and sports facility and entertainment uses; to provide an area of the downtown to enhance the expansion of Boston's biomedical and research and development sectors; to create a complex of facilities and services which will foster economic growth in Boston and throughout the region; to increase the number of jobs in those sectors of the economy likely to employ Boston residents; to promote the creation and incubation of new research and development-intensive businesses; to permit a controlled mix of research and development uses along with facilities supportive of these uses; to

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create a functionally and architecturally unified district which is compatible with the North End and Bulfinch Triangle; to create vistas and access to the Charles River; and to create new recreation space along the Charles River.

SECTION 39-2. **Recognition of the North Station EDA Plan.** In accordance with Section 27D-18 of this code, which requires production of comprehensive planning policies, development controls, and design guidelines for Special Study Areas in the Downtown Interim Planning Overlay District, including the North Station area (Special Study Area No. 5), this article serves as the North Station EDA Plan. The Zoning Commission hereby recognizes the North Station EDA Plan (adopted by the Boston Redevelopment Authority on _____, and as amended) as the general plan for the North Station EDA. The North Station EDA Plan shall also serve as the portion of the general plan for the City of Boston applicable to the North Station EDA. The preparation of the North Station EDA Plan is pursuant to Section 70 of Chapter 41 of the General Laws, Section 652 of the Acts of 1960, and Section 3 of Chapter 4 of the Ordinances of 1952.

SECTION 39-3. **Physical Boundaries.** The provisions of this article are applicable only in the North Station EDA. The boundaries of the North Station EDA are as shown on a map entitled, "Map 1B North Station Economic Development Area (supplemental to 'Map 1 Boston Proper')" of the series of maps entitled "Zoning Districts - City of Boston," as amended, and are depicted in Appendix A to this article.

SECTION 39-4. **Applicability.** This article together with the rest of this code constitutes the zoning regulation for the North Station EDA and applies as

specified in ~~Section~~ 4-1 regarding the conformity of buildings and land to this code. Application of the provisions of Article 27D to the North Station EDA is rescinded, and the North Station EDA is deleted from the Downtown Interim Planning Overlay District on the effective date of this article. Where conflicts between this article and the rest of this code exist, the provisions of this article shall govern. Except where specifically indicated in this article, the provisions of this article supersede Sections 13-1, 13-2, and 13-4, and Articles 8 and 14 through 24 of this code for the North Station EDA. The provisions of this article, however, are not applicable to the following Proposed Projects, which are governed by the rest of this code.

1. Any Proposed Project for which application to the Inspectional Services Department for a building or use permit has been made prior to the first notice of hearing before the commission for adoption of this article and for which no Zoning Relief is required.
2. Any Proposed Project for which appeal to the Board of Appeal for any Zoning Relief has been made prior to the first notice of hearing before the commission for adoption of this article, provided that such Zoning Relief has been or thereafter is granted by the Board of Appeal pursuant to such appeal.

SECTION 39-5. General Building Height and Floor Area Ratio. Except in the New Boston Garden Development Area and the New Economy Development Area, as provided in subsequent sections, a Proposed Project within the North Station EDA is allowed an as-of-right building height of one hundred twenty-five (125) feet and an as-of-right FAR of eight (8); provided that, any Proposed Project

shall have an as-of-right building height of one hundred fifty-five (155) feet and an FAR of ten (10) if such Proposed Project is subject to or shall elect to comply with the provisions of Article 31, Development Review Requirements, and the Boston Redevelopment Authority has certified that the Proposed Project complies with Article 31.

SECTION 39-6. Building Height and FAR in the New Boston Garden Development Area. Within that portion of the North Station EDA depicted on Map 1B of this code and Appendix A hereto as the "New Boston Garden Development Area," a Proposed Project is allowed an as-of-right building height of four hundred (400) feet and an as-of-right FAR of eleven (11).

SECTION 39-7. Building Height and FAR in the New Economy Development Area. Within that portion of the North Station EDA depicted on Map 1B of this code and Appendix A hereto as the "New Economy Development Area", a Proposed Project is allowed an as-of-right building height of two hundred fifty (250) feet and an as-of-right FAR of eight (8); provided that any Proposed Project shall have an as-of-right building height of three hundred (300) feet and FAR of ten (10) if a Development Plan for such Proposed Project has been submitted and approved pursuant to Sections 3-1A.a and 39-8. Notwithstanding the foregoing provision, a Proposed Project within that portion of the New Economy Development Area designated for public parking on Map 1B and Appendix A is limited to a maximum building height of sixty-five (65) feet.

SECTION 39-8. Streamlined Approval Process. This section establishes a streamlined process for approving Proposed Projects in the New Boston Garden

Development Area and the New Economy Development Area through use of the Planned Development Area ("PDA") overlay district.

1. **Planned Development Areas.** PDAs, as described in Section 3-1A.a, may be established in the New Boston Garden Development and New Economy Development Areas. The purposes for establishment of PDAs are to establish a more flexible zoning law and encourage large-scale private development on underutilized sites in the North Station EDA. No PDA is permitted within the North Station EDA except within the New Boston Garden Development and New Economy Development Areas.
2. **Development Plan Approval Process.** To establish a PDA, the Applicant must submit a Development Plan for the Proposed Project to the Boston Redevelopment Authority for its approval in accordance with Section 3-1A.a. So long as a Proposed Project as a whole is in substantial accord with the provisions of this article and the code, including without limitation those relating to FAR and building height, a Proposed Project within a PDA may be located on multiple parcels or lots, whether or not any portion of the Proposed Project on a particular parcel or lot satisfies the provisions of this article and the code.
3. **Expedited Review.** No later than sixty (60) days after the Applicant files a Development Plan, the Boston Redevelopment Authority shall approve the Development Plan, conditionally approve the Development Plan, or disapprove the Development Plan.

4. **Coordination with Article 31.** The approval by the Boston Redevelopment Authority of a Development Plan shall fully satisfy the requirements of Article 31, and upon application, or at any time during the application process, the Applicant may request the Boston Redevelopment Authority to deem any document filed under Article 31 (i.e., a Project Notification Form, Draft Project Impact Report, or Final Project Impact Report) that meets the provisions of Section 3-1A.a as the Applicant's Development Plan. In its approval of the Development Plan, the Boston Redevelopment Authority may require additional information, studies, and mitigation measures which are within the scope of its jurisdiction under Article 31.
5. **Zoning Commission Approval Only; No Board of Appeal Action Required.** Upon approval of the Development Plan by the Boston Redevelopment Authority, the Boston Redevelopment Authority shall transmit the Applicant's Development Plan to the Zoning Commission for its consideration. If approved, the approved Development Plan together with the rest of this code constitutes the zoning regulation for the PDA and applies as specified in Section 4-1 regarding the conformity of buildings and land to this code. Where conflicts between the approved Development Plan and the rest of this code exist, the provisions of the approved Development Plan shall govern. Except where specifically indicated in this article, the provisions of the approved Development Plan supersede Sections 13-1, 13-2, and 13-4, and Articles 8 and 14 through 24 of this code for the PDA. No Zoning Relief from the Board of Appeal shall be required, and the Proposed Project, and the parcels or lots and improvements thereon, which are the subject of the Development Plan shall be deemed to be in compliance with the provisions of

this ~~article~~ and the code, so long as the same are consistent with the provisions of the approved Development Plan and the other applicable provisions of the code. Nothing in this article shall be construed to limit the power of the Board of Appeal to grant Zoning Relief for Proposed Projects in PDAs, except that exceptions from the building height and FAR provisions set forth in Sections 39-6 and 39-7 are not permitted.

6. **Amendment of Development Plan.** In a PDA, a Proposed Project which is not the subject of the Development Plan approved for the PDA shall not proceed unless either: (a) there has been an amendment to the Development Plan; or (b) the Boston Redevelopment Authority has certified to the Commissioner of Inspectional Services that the Proposed Project is consistent with the approved Development Plan for such PDA or the portion thereof to which said work relates. The procedure for amendment of the Development Plan is the same procedure as the procedure for initial approval of a Development Plan, as set forth in Section 3-1A.a and Section 39-8.

SECTION 39-9. Applicability of Future Amendments. The issuance of a permit for the development of any portion of a Proposed Project proceeding in accordance with an approved Development Plan, as amended from time to time, shall be deemed to be the issuance of a permit for the entire Proposed Project for the purpose of applying Section 5 of Chapter 665 of the Acts of 1956 as amended from time to time. Without limiting the foregoing sentence, the proviso of Section 5 that construction work under the permit proceed continuously to completion shall be deemed satisfied so long as construction on the Proposed

Project proceeds generally in accordance with a development schedule set forth in the approved Development Plan.

SECTION 39-10. Planned Development Areas: Standards for Development Plan

Approval. No Development Plan shall be approved unless the Boston Redevelopment Authority finds that: (a) such Development Plan is in substantial accord with the provisions of this section and Section 39-11; (b) such Development Plan conforms to the North Station EDA Plan and the general plan for the city as a whole; (c) each Proposed Project described in the Development Plan is in substantial accord with the building height and FAR standards set forth in Sections 39-6 or 39-7, as applicable; and (d) on balance, nothing in such Development Plan will be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens.

SECTION 39-11. Planned Development Areas: Planning and Development Criteria.

The Boston Redevelopment Authority may approve a Development Plan as meeting the standards of Section 39-10 if the Development Plan proposes a plan for development, consistent with the goals of the North Station Economic Development Area Plan, including one or more of the following: (a) the diversification and expansion of Boston's economy in new areas of economic activity, such as private investment in the research and development of pharmaceutical and biomedical products, in accordance with the provisions of paragraph 1, below, of this section; (b) the construction of major, unique civic facilities, including a new sports and entertainment arena and a multimodal transportation center in accordance with the provisions of paragraph 2, below of

this section, or ~~(c)~~ the creation or retention of job opportunities, in accordance with the provisions of paragraph 3, below, of this section.

1. **Development Plan Approval for Diversification and Expansion of Boston's Economy.** The Boston Redevelopment Authority may approve a Development Plan proposing diversification and expansion of Boston's economy if a significant portion of the new gross floor area of the Proposed Project is for uses such as, but not limited to, the following: (a) research and development of pharmaceutical and biomedical products; (b) the design, development, fabricating, and testing of instruments for engineering, medical, dental, scientific, optical, or other similar professional use; or (c) other scientific research and development uses, including laboratories and facilities for theoretical, basic, and applied research, product development and testing, prototype fabrication, or production of experimental products prior to preclinical testing.
2. **Development Plan Approval for the Construction of Major, Unique Civic Facilities.** The Boston Redevelopment Authority may approve a Development Plan proposing construction of major, unique civic facilities if: (a) the Proposed Project includes an indoor sports and entertainment facility; and (b) the Proposed Project is coordinated with North Station as the major transportation gateway to downtown Boston by rail, auto, and public transportation from the north.
3. **Development Plan Approval for the Creation or Retention of Job Opportunities.** The Boston Redevelopment Authority may approve a Development Plan proposing creation or retention of job opportunities if it

determines that: (a) employment positions in businesses occupying the Proposed Project are newly created in Boston, and are not relocated from other parts of the city; (b) the Development Plan provides for entrepreneurial assistance measures, such as (i) information, outreach, and education programs concerning new business development; (ii) general business planning and management counseling; (iii) technical assistance; and (iv) the establishment of general financing options; or (c) the use proposed is necessary to retain jobs in the city or contribute otherwise to the economic health of the city, by showing that at least thirty-three percent (33%) of the gross floor area of the Proposed Project will be leased or used by entities identified in the Development Plan.

SECTION 39-12. North Station Economic Development Area Use Regulations. In the North Station EDA the use of land and structures is hereby regulated as provided in this section. The provisions of Article 8 apply only as specified in this section, except that Section 8-6 applies. No land or structure shall be erected, used, or arranged or designed to be used, in whole or in part, except in conformity with the provisions of this Section 39-12 or in conformity with the provisions of an approved Development Plan with respect to land or structures located in a PDA.

1. **Inclusion of Day Care Facilities.** The provisions of this paragraph apply only to Proposed Projects which exceed one hundred thousand (100,000) square feet of gross floor area. Any Proposed Project having a gross floor area, not including the floor area devoted to Residential Uses, which equals or exceeds one hundred thousand (100,000) square feet, shall devote to day care facilities an amount of floor area equal to at least the amount listed below

in Table A of this Section. An Applicant for a Proposed Project subject to the provisions of this paragraph may fulfill its obligations under this paragraph by (a) creating such facilities on-site; or (b) creating such facilities, or causing such facilities to be created, in the vicinity of the Proposed Project, within the North Station Economic Development Area, the Bulfinch Triangle District, or the North End. Any Proposed Project subject to the provisions of this section shall devote to on-site day care facilities an amount of floor area equal to at least four thousand (4,000) square feet or the minimum required square footage, whichever is less. The provision of day care facilities in accordance with this paragraph shall be in conformity with written regulations to be adopted by the Boston Redevelopment Authority after public notice and hearing. For the purposes of this paragraph, the term "day care facilities" includes the finish, furnishings, and equipment required for use of the floor area for such facilities, to enroll people for care, instruction, or recreation during regular business hours.

TABLE A

PROVISION OF DAY CARE FACILITIES

<u>Size of Proposed Project (Gross Square Feet)</u>	<u>Minimum Day Care Facilities (Gross Square Feet)</u>
100,000 up to 200,000	2% of gross floor area
200,000 up to 500,000	4,000
500,000 up to 1,000,000	8,000
More than 1,000,000	12,000

2. **Allowed Uses.** No land or structure in the North Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use except under the provisions of an approved Development Plan for land or structures in a PDA, or this Section 39-12.3 and Article 6,

Conditional Uses, unless such use is specified in the Development Plan or in this Section 39-12.2. Any use so specified below shall be allowed as a matter of right, subject only to the provisions of the Development Plan or this Section 39-12.

- (a) New Economy Uses. Limited to basic research; research and development; product development or prototype manufacturing; biomedical technology; pharmaceutical research and development; research and medical laboratories.
- (b) Public Arena Uses. Limited to the production and exhibition of professional and amateur sporting and athletic events; theatrical productions; concerts; public entertainment events; religious gatherings; large-scale meetings; concession services; private clubs serving members and guests; health club and sports medicine clinic; loading and servicing facilities, subject to Section 39-17; video production facilities; ticket sales facilities, and offices for building management and staff.
- (c) Residential Uses. Limited to multifamily dwelling, artists' live/work space, apartment house, lodging or boarding house, temporary housing shelters, and any dwelling converted for more families, where structures after conversion will conform to this code. Residential uses include any affordable dwelling units, including but not limited to affordable dwelling units which are rental units, condominiums, or limited equity share cooperatives.

- (d) Restaurant and Entertainment Uses. Limited to the service or sale of food or drink for on-premises consumption; concert hall; theater, commercial or nonprofit (including motion picture or video theater, but not drive-in theater); art galleries, nonprofit or for profit; provided that, uses described in Use Item 38A are forbidden.
- (e) Office Uses. Limited to business or professional offices; clinics; real estate, insurance, or other agency or government office; office building; post office, or bank (other than drive-in bank) or similar establishment.
- (f) Hotel or motel.
- (g) Group Care Residence, limited, as defined by clause 22B of Section 2-1, provided that: (i) no limited group care residence is within 1,000 feet of another limited group care residence; and (ii) a cooperation agreement exists relating to the location and operation of such facilities between the Boston Redevelopment Authority, the City of Boston, and the agency of the Commonwealth operating, licensing, or regulating such facilities.
- (h) Day care center, family care center, nursery school, kindergarten, elementary or secondary school, or community health center or clinic.
- (i) Recreational and Community Uses. Limited to private grounds for games and sports; other social, recreational, or sports and

entertainment center conducted for profit; private club (including quarters of fraternal or sororal organizations) operated for members only; adult education center or community center building; settlement house; the maintenance and operation of any amusement game machine in a private club, dormitory, fraternity, or sorority house, or similar noncommercial establishment, or in any commercial establishment.

- (j) Public Service Uses. Limited to public service pumping station, sub-station, or automatic telephone exchange, subject to St. 1956, c. 665, s. 2.
- (k) Wholesale Uses. Limited to office or display or sales space of a wholesale, jobbing, or distributing house; and provided that not more than twenty-five percent (25%) of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.
- (l) Service Uses. Limited to video or film production studio; barber shop; beauty shop; shoe repair shop; self-service laundry; pick-up and delivery station of laundry or dry-cleaner; tailor shop; hand laundry; dry-cleaning shop; framer's studio; caterer's establishment; photographer's studio; printing plant; taxidermist's shop; upholster's shop; carpenter's shop; electrician's shop; plumber's shop; radio and television repair shop; funeral home; undertaker's establishment; mortuary; research laboratory; radio or television studio; or similar use provided that in laundries and cleaning establishments, only nonflammable solvents are used for cleaning; animal hospital or clinic.

- (m) Retail Uses. Limited to store primarily serving the local retail business needs of the neighborhood; artist supply store; grocery store; department store, furniture store, general merchandise mart or other store serving the general retail business needs of a major part of the city, including accessory storage; provided that, uses described in Use Item 34A are forbidden.
- (n) Institutional Uses. Limited to place of worship, monastery, convent, or parish house; elderly care facility; nonprofit library or museum, not accessory to another institutional use; research laboratory; clinic or professional offices accessory to a hospital or sanatorium whether or not on the same lot, provided that such use will occupy interior space being used by the same institution for another institutional use at the time such change is proposed; hospital, sanatorium, elderly care facility, orphanage, or similar institution not for correctional purposes, whether or not providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; or clinic or professional offices accessory to a hospital or sanatorium whether or not on the same lot, providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons.
- (o) Accessory Uses subject to the limitations and restrictions of Article 10, limited to: conference facilities; auditoria; classrooms; a garage or parking space for occupants, employees, students, and visitors, provided that such use is accessory to a residential use, a hotel or motel, a

~~group~~ care residence, or a dormitory, fraternity, or sorority house; a swimming pool or tennis court; the storage of flammable liquids and gases incidental to a lawful use; the manufacture, assembly, or packaging of products sold on the lot; the maintenance and operation of not more than four amusement game machines accessory to eating and drinking establishments; the keeping of animals, other than households pets, provided that every enclosure is sufficient to prevent a nuisance to any adjacent residences or eleemosynary institutions; the keeping of laboratory animals incidental to an allowed institutional use, provided that all resulting noise, dust, fumes, gases, odors, and refuse matter are effectively confined to the lot or so disposed of as not to be a nuisance or hazard to public health or safety; in educational institutions with more than four hundred (400) full-time students, and in hospitals with more than fifty (50) beds, incidental uses and services ordinarily found in connection therewith and primarily for the patients and staff or students and faculty, when conducted wholly within a building and entered from within the building where there is but one building on the lot line where there is more than one building on a lot, unless accessory to a hospital or sanatorium or clinic which is an allowed use; research laboratory accessory to an allowed institutional use; or any use ancillary to, and ordinarily incident to, a lawful main use, provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is accessory.

- (p) Uses specified in an approved Development Plan for land or structures in a PDA.

3. **Conditional Uses.** No land or structure in the North Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use under the provisions of Article 6 unless such use is specified in this Section 39-12.3. The granting of a permit for any use so specified may be authorized conditionally by the Board of Appeal acting under the provisions of Article 6, subject to the regulations set forth in this Section 39-12. The continued right to a conditional use is dependent upon maintaining the character and extent of operations and structures.
- (a) **Residential Uses.** Limited to temporary dwelling structure, orphanage, and any dwelling converted for more families, provided that, after conversion, any nonconformity as to floor area ratio is no greater than prior to conversion.
 - (b) **Group Care Residence.** Unless otherwise allowed pursuant to paragraph 2(g) of this section.
 - (c) **Light Manufacturing Uses,** except as allowed in Section 39-12.2(a); kennel or pound.
 - (d) **Parking lot or parking garage.**
 - (e) **Wholesale Uses.** Limited to accessory storage (other than of flammable liquids, gases, and explosives) in roofed structures or office or display or sales space of a wholesale, jobbing, or distributing house where more

~~than~~ twenty-five percent (25%) of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.

- (f) Fast Food Restaurant Uses. Limited to sale over the counter, not wholly incidental to a use listed under paragraph 2(a), 2(d), or 2(m) of this section, of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out.
- (g) Rental motor vehicle and trailer agency accessory to a hotel or motel, provided that no rental vehicles or trailers are parked on the street and that exterior lighting is arranged to shine downward and away from residences.
- (h) The change of use of any residence to another use.
- (i) Transportation Uses. Limited to bus terminal, bus station, subway station or railroad passenger station, airline shuttle service.
- (j) Any use on a lot adjacent to, or across the street from, but in the same district as, a lawful use to which it is ancillary and for which it would be a lawful accessory use if it were on the same lot; provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is ancillary.

(k) ~~Institutional Uses~~. Limited to college or university granting degrees by authority of the Commonwealth; fraternity or sorority house or dormitory; trade, professional, or other school; penal or correctional institution; detention home; machine shop or other noisy activity accessory to a school, college, or university, adequately sound-insulated to protect the neighborhood from unnecessary noise; or library or museum not conducted for profit and accessory to another institutional use not allowed pursuant to paragraph 2(n) of this section.

(l) Accessory Uses. Limited to a garage or parking space for occupants, employees, customers, students, and visitors, such use not accessory to a residential use, a hotel or motel, a group care residence, or a dormitory, fraternity, or sorority house.

4. **Forbidden Uses.** No land or structure in the North Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use specified in the use item column of Table A of Section 8-7 if such use is not specified in Sections 39-12.2 and 39-12.3 as an allowed or conditional use, except for such nonconforming uses as may be allowed to be continued under the provisions of Article 9.

SECTION 39-13. Specific Design Requirements. Proposed Projects within the North Station EDA shall comply with the specific design requirements established in this section, or if located within a PDA, with the provisions of the approved Development Plan. Except as provided in Article 6A and Section 39-8.5, no Zoning Relief shall be granted from the provisions of this section.

1. **Street Wall Continuity.** The Street Wall of any Proposed Project shall be built:
 - (a) to be coextensive with at least eighty percent (80%) of the "Existing Building Alignment" of the block on which the Proposed Project fronts, established pursuant to Section 18-2 of this code; or
 - (b) to a depth from the street line equal to that of at least eighty percent (80%) of the Existing Building Alignment of either block adjacent to the block on which the Proposed Project is located, if there is no Existing Building Alignment of such block.

RECESS ABOVE DISPLAY WINDOW AREA STREET WALL*

<u>Maximum Depth</u>	<u>Maximum Aggregate Surface Area</u>
Fifteen (15) feet	Twenty percent (20%)

* Recesses do not include windows, which must be indented.

2. **Street Wall Height.** The "Street Wall Height" of Proposed Projects within the North Station Economic Development Area shall not exceed one hundred twenty-five (125) feet. The endwall of a street which is a cul-de-sac does not count as a Street Wall for the purposes of this Section 39-13.
3. **Setback Requirements.**
 - (a) **Sky Plane Setbacks.** Other than decorative cornices and other surface ornamentation, every portion of a Proposed Project (including, but not limited to, mechanical equipment) above the Street Wall Height of such Proposed Project shall be set back by not less than the amount of the

—**"Sky Plane Setbacks"** established in Table C for the Street Wall Heights and building heights of three hundred (300) feet. Portions of a Proposed Project more than one hundred seventy-five (175) feet in height above grade level should be treated in a manner to create a visually distinctive roof or other termination of the facade of the Proposed Project.

The amount of the Sky Plane Setback at various heights for each wall of a building depends on whether the particular wall faces on a street identified below in Table B. The endwall of a street which is a cul-de-sac does not count as a Street Wall for the purposes of this Section 39-13.

TABLE B

STREETS ON WHICH SETBACKS ARE REQUIRED

Causeway Street
Lowell Street

New Nashua Street
North Washington Street

TABLE C
SKY PLANE SETBACKS

Minimum Depth of Setback from Street Wall

<u>Location</u>	<u>Above Street Wall Height</u>	<u>Above 300' (Total Setback From Street Wall)</u>
Causeway Street*	40'	40'
Lowell Street	15'	15'
New Nashua Street*	35'	50'
North Washington Street	15'	50'

- * The Sky Plane Setbacks of separate buildings along the same street may be averaged, to avoid repetitive tower distances from the Street Wall, so long as a minimum Sky Plane Setback of twenty-five (25) feet is maintained for portions each building exceeding the Street Wall Height.

The Sky Plane Setback provisions established in this paragraph shall not be applicable to the extent that, as a consequence of such provisions, the maximum possible gross floor area for any floor of a Proposed Project would be less than nine thousand (9,000) square feet.

- (b) The principal facade of a building may violate the setback requirements up to the one hundred seventy-five (175) foot level, up to a maximum of 35 feet horizontal dimension or one bay or thirty percent (30%) of total horizontal length of the principal facade, whichever is greater.

SECTION 39-14. Riverfront Setback Area. No structure shall be erected, altered, or extended within thirty-five (35) feet of the existing mean high water mark of the Charles River.

SECTION 39-15. North Station Central Artery Open Space Subdistrict. The area within the North Station Economic Development Area and Bulfinch Triangle District depicted on Map 1B of this code and Appendix A to this article as the "North Station Central Artery Open Space Subdistrict" is zoned an air-right open space subdistrict, and the regulations set forth in Section 33-16 apply to this subdistrict.

SECTION 39-16. Off-Street Parking Not Required. Within the North Station EDA off-street parking facilities are not required in any Proposed Project.

SECTION 39-17. Off-Street Loading. Article 24 provides the regulations governing provision and design of off-street loading facilities for the use of any structure or land not subject to the provisions of Article 31, Development Review Requirements, or within a PDA, to the provisions of the Development Plan. The provision and design of off-street loading facilities for the use of any structure or land which is subject to the provisions of Article 31 shall be determined through the Development Review Requirements process, or, if located in a PDA, through the Development Plan approval process.

SECTION 39-18. Regulations. The Boston Redevelopment Authority may promulgate and amend from time to time regulations to administer this article.

SECTION 39-19. Severability. The provisions of this article are severable, and if any such provision or provisions shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this article.

APPENDIX B

Definitions

For the purposes of this article only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "Applicant" means any person or entity having a legal or equitable interest in a Proposed Project subject to the provisions of this article, as set forth in Section 39-4, or the authorized agent of any such person or entity.
2. "Development Plan" means the development plan required in Section 3.1A.a of this code, the approval of which plan is a prerequisite to the issuance of any building or use permit with respect to any building, structure or land within a Planned Development Area, as the same may be amended from time to time.
3. "North Station Economic Development Area Plan" means the comprehensive plan, adopted by the Boston Redevelopment Authority pursuant to Chapter 652 of the Acts of 1960, Section 3 of Chapter 4 of the Ordinances of 1952 and Section 27D-18 of the code, which sets forth the planning policies, development controls, and design guidelines for the North Station Economic Development Area.
4. "North Station Economic Development Area" means the area depicted on the map in Appendix A and Map 1B of this code.
5. "Proposed Project" means the substantial demolition, erection, or extension of any structure or part thereof, or the change of use of any structure or land, for which the Applicant is required to obtain a building or use permit. A Proposed Project may proceed in phases, and may include more than one building, structure, or use.
6. "Street Wall" means the exterior wall or portion of the exterior wall of a Proposed Project that faces a street on which such Proposed Project is located, and is below the Street Wall Height, determined pursuant to Section 39-13.
7. "Zoning Relief" means any zoning variance, exception, conditional use permit, interim planning permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

The Boston Redevelopment Authority petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956 as amended, as follows.

By inserting, after Article 39, the following article:

ARTICLE 40
SOUTH STATION ECONOMIC DEVELOPMENT AREA

SECTION 40-1. Statement of Purpose, Goals and Objectives. The purpose of this article is to establish the zoning regulations for the comprehensive plan for the South Station Economic Development Area ("EDA") as required by the provisions of the Downtown Interim Planning Overlay District, Article 27D of this code. The goals and objectives of this article and the South Station EDA Plan are to direct downtown development in a way that promotes balanced growth for Boston; to channel growth away from congested areas and toward underutilized sites in the Bedford-Essex corridor and along the Fort Point Channel; to permit redevelopment which provides significant community benefits, in accordance with city land disposition policies; to create a mixed-use district which includes office, retail, hotel, research and development, and biomedical uses; to provide an area of the downtown to enhance the expansion of Boston's biomedical and research and development sectors; to create a complex of facilities and services which will foster economic growth in Boston and throughout the region; to increase the number of jobs in those sectors of the economy likely to employ Boston residents; to promote the creation and incubation of new research and development-intensive businesses; to permit a controlled mix of research and

development uses along with facilities supportive of these uses; to create a transition of uses and character between the downtown and Chinatown and Leather Districts; to utilize existing transit centers; and to improve vehicular access to the city by establishing parking facilities near major commuter arteries.

SECTION 40-2. **Recognition of the South Station Economic Development Area Plan.** In accordance with Section 27D-18 of this code, which requires production of comprehensive planning policies, development controls, and design guidelines for Special Study Areas in the Downtown Interim Planning Overlay District, including the South Station area (Special Study Area No. 10), this article serves as the South Station Economic Development Area Plan. The Zoning Commission hereby recognizes the South Station Economic Development Area Plan (adopted by the Boston Redevelopment Authority on _____, and as amended) as the general plan for the South Station EDA. The South Station Economic Development Area Plan shall also serve as the portion of the general plan for the City of Boston applicable to the South Station EDA. The preparation of the South Station Economic Development Area Plan is pursuant to Section 70 of Chapter 41 of the General Laws, Section 652 of the Acts of 1960, and Section 3 of Chapter 4 of the Ordinances of 1952.

SECTION 40-3. **Physical Boundaries.** The provisions of this article are applicable only in the South Station EDA. The boundaries of the South Station EDA and Leather District are as shown on a map entitled, "Map 1C South Station Economic Development Area (supplemental to 'Map 1 Boston Proper')" of the series of maps entitled "Zoning Districts - City of Boston," as amended, and are depicted in Appendix A to this article.

SECTION 40-4. Applicability. This article together with the rest of this code constitutes the zoning regulation for the South Station EDA and applies as specified in Section 4-1 regarding the conformity of buildings and land to this code. Application of the provisions of Article 27D to the South Station EDA is rescinded, and the South Station EDA is deleted from the Downtown Interim Planning Overlay District on the effective date of this article. Where conflicts between this article and the rest of this code exist, the provisions of this article shall govern. Except where specifically indicated in this article, the provisions of this article supersede Sections 13-1, 13-2, and 13-4, and Articles 8 and 14 through 24 of this code for the South Station EDA. The provisions of this article, however, are not applicable to the following Proposed Projects, which are governed by the rest of this code.

1. Any Proposed Project for which application to the Inspectional Services Department for a building or use permit has been made prior to the first notice of hearing before the commission for adoption of this article and for which no Zoning Relief is required.
2. Any Proposed Project for which appeal to the Board of Appeal for any Zoning Relief has been made prior to the first notice of hearing before the commission for adoption of this article, provided that such Zoning Relief has been or thereafter is granted by the Board of Appeal pursuant to such appeal.

SECTION 40-5. General Building Height and Floor Area Ratio. Except in the Parcel-to-Parcel Linkage Development Area and the New Economy Development

Area, a Proposed Project within the South Station EDA is allowed an as-of-right building height of three hundred (300) feet and an as-of-right FAR of twelve (12).

SECTION 40-6. Building Height and FAR in the Parcel to Parcel Linkage Development Area. Within that portion of the South Station EDA depicted on Map 1C of this code and Appendix A hereto as the "Parcel to Parcel Linkage Development Area," a Proposed Project is allowed an as-of-right building height of four hundred sixty-five (465) feet and an as-of-right FAR of fourteen (14).

SECTION 40-7. Building Height and FAR in the New Economy Development Area. Within that portion of the South Station EDA depicted on Map 1C of this code and Appendix A hereto as the "New Economy Development Area", a Proposed Project is allowed an as-of-right building height of three hundred (300) feet and an as-of-right FAR of twelve (12); provided that any Proposed Project shall have an as-of-right building height of four hundred (400) feet and FAR of fourteen (14) if a Development Plan for such Proposed Project has been submitted and approved pursuant to Sections 3-1A.a and 40-8.

SECTION 40-8. Streamlined Approval Process. This section establishes a streamlined process for approving Proposed Projects in the Parcel-to-Parcel Development Area and the New Economy Development Area through use of the Planned Development Area ("PDA") overlay district.

1. **Planned Development Areas.** PDAs, as described in Section 3-1A.a may be established in the Parcel-to-Parcel Linkage Development and New Economy Areas. The purposes for establishment of PDAs are to establish a more

~~flexible zoning~~ law and encourage large-scale private development on underutilized sites in the South Station EDA. No PDA is permitted within the South Station EDA except within the Parcel-to-Parcel Linkage Development and New Economy Development Areas.

2. **Development Plan Approval Process.** To establish a PDA, the Applicant must submit a Development Plan for the Proposed Project to the Boston Redevelopment Authority for its approval in accordance with Section 3-1A.a. So long as a Proposed Project as a whole is in substantial accord with the provisions of this article and the code, including without limitation those relating to FAR and building height, a Proposed Project within a PDA may be located in multiple parcels or lots, whether or not any portion of the Proposed Project on a particular parcel or lot satisfies the provisions of this article and the code.
3. **Expedited Review.** No later than sixty (60) days after the Applicant files a Development Plan, the Boston Redevelopment Authority shall approve the Development Plan, conditionally approve the Development Plan, or disapprove the Development Plan.
4. **Coordination with Article 31.** The approval by the Boston Redevelopment Authority of a Development Plan shall fully satisfy the requirements of Article 31, and upon application, or at any time during the application process, the Applicant may request the Boston Redevelopment Authority to deem any document filed under Article 31 (i.e., a Project Notification Form, Draft Project Impact Report, or Final Project Impact Report) that meets the

provisions of Section 3-1A.a as the Applicant's Development Plan. In its approval of the Development Plan, the Boston Redevelopment Authority may require additional information, studies, and mitigation measures which are within the scope of its jurisdiction under Article 31.

5. Zoning Commission Approval Only; No Board of Appeal Action Required.

Upon approval of the Development Plan by the Boston Redevelopment Authority, the Boston Redevelopment Authority shall transmit the Applicant's Development Plan to the Zoning Commission for its consideration. If approved, the approved Development Plan together with the rest of this code constitutes the zoning regulation for the PDA and applies as specified in Section 4-1 regarding the conformity of buildings and land to this code. Where conflicts between the approved Development Plan and the rest of this code exist, the provisions of the approved Development Plan shall govern. Except where specifically indicated in this article, the provisions of the approved Development Plan supersede Sections 13-1, 13-2, and 13-4, and Articles 8 and 14 through 24 of this code for the PDA. No Zoning Relief from the Board of Appeal shall be required, and the Proposed Project, and the parcels or lots and improvements thereon, which are the subject of the Development Plan shall be deemed to be in compliance with the provisions of this article and the code, so long as the same are consistent with the provisions of the approved Development Plan and the other applicable provisions of the code. Nothing in this article shall be construed to limit the power of the Board of Appeal to grant Zoning Relief for Proposed Projects in PDAs, except that exceptions from the building height and FAR provisions set forth in Sections 40-6 and 40-7 are not permitted.

6. **Amendment of Development Plan.** In a PDA, a Proposed Project which is not the subject of the Development Plan approved for the PDA shall not proceed unless either: (a) there has been an amendment to the Development Plan; or (b) the Boston Redevelopment Authority has certified to the Commissioner of Inspectional Services that the Proposed Project is consistent with the approved Development Plan for such PDA or the portion thereof to which said work relates. The procedure for amendment of the Development Plan is the same procedure as the procedure for initial approval of a Development Plan, as set forth in Section 3-1A.a and Section 40-8.

SECTION 40-9. Applicability of Future Amendments. The issuance of a permit for the development of any portion of a Proposed Project proceeding in accordance with an approved Development Plan, as amended from time to time, shall be deemed to be the issuance of a permit for the entire Proposed Project for the purpose of applying Section 5 of Chapter 665 of the Acts of 1956 as amended from time to time. Without limiting the foregoing sentence, the proviso of Section 5 that construction work under the permit proceed continuously to completion shall be deemed satisfied so long as construction on the Proposed Project proceeds generally in accordance with a development schedule set forth in the approved Development Plan.

SECTION 40-10. Planned Development Areas; Standards for Development Plan Approval. No Development Plan shall be approved unless the Boston Redevelopment Authority finds that: (a) such Development Plan is in substantial accord with the provisions of this section and Section 40-11; (b) such

Development Plan conforms to the South Station Economic Development Area Plan and the general plan for the city as a whole; (c) each Proposed Project described in the Development Plan is in substantial accord with the building height and FAR standards set forth in Sections 40-6 or 40-7, as applicable; and (d) on balance, nothing in such Development Plan will be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens.

SECTION 40-11. Planned Development Areas: Planning and Development Criteria.

The Boston Redevelopment Authority may approve a Development Plan as meeting the standards of Section 40-10 if the Development Plan proposes a plan for development consistent with the goals of the South Station Economic Development Area Plan, including one or more of the following: (a) the diversification and expansion of Boston's economy in new areas of economic activity, such as private investment in the research and development of pharmaceutical and biomedical products, in accordance with the provisions of paragraph 1, below, of this section; (b) the provision of public benefits in accordance with Parcel-to-Parcel Linkage program guidelines, in accordance with the provisions of paragraph 2, below, of this section; or (c) the creation or retention of job opportunities, in accordance with the provisions of paragraph 3, below, of this section.

1. **Development Plan Approval for Diversification and Expansion of Boston's Economy.** The Boston Redevelopment Authority may approve a Development Plan proposing diversification and expansion of Boston's economy if at least fifty percent (50%) of the gross floor area of the Proposed Project is dedicated to or supportive of uses such as, but not limited to, the following:
 - (a) research and development of pharmaceutical and biomedical products; (b)

the design, development, fabricating, and testing of instruments for engineering, medical, dental, scientific, optical, or other similar professional use; or (c) other scientific research and development uses, including laboratories and facilities for theoretical, basic, and applied research, product development and testing, prototype fabrication, or production of experimental products prior to preclinical testing.

2. **Development Plan Approval for the Provision of Public Benefits in Accordance with Parcel to Parcel Linkage Program Guidelines.** The Boston Redevelopment Authority may approve a Development Plan proposing provision of public benefits in accordance with Parcel to Parcel Linkage program guidelines if: (a) the program guidelines have been approved by the Boston Redevelopment Authority for a site for which the Boston Redevelopment Authority has recommended the tentative designation of a developer; (b) the program guidelines provide for the participation of community-based organizations in the development; (c) the Proposed Project or the Applicant contributes to a community development fund; and (d) the Applicant provides such other community benefits as may be detailed in the Parcel to Parcel Linkage program guidelines, as amended from time to time and as affected by agreements between the Boston Redevelopment Authority and the Applicant.
3. **Development Plan Approval for the Creation or Retention of Job Opportunities.** The Boston Redevelopment Authority may approve a Development Plan proposing creation or retention of job opportunities if it determines that: (a) employment positions in businesses occupying the

Proposed Project are newly created in Boston, and are not relocated from other parts of the city; (b) the Development Plan provides for entrepreneurial assistance measures, such as (i) information, outreach, and education programs concerning new business development; (ii) general business planning and management counseling; (iii) technical assistance; and (iv) the establishment of general financing options; or (c) the use proposed is necessary to retain jobs in the city or contribute otherwise to the economic health of the city, by a showing that at least thirty-three percent (33%) of the gross floor area of the Proposed Project will be leased or used by entities identified in the Development Plan.

SECTION 40-12. South Station Economic Development Area Use Regulations. In the South Station EDA the use of land and structures is hereby regulated as provided in this section. The provisions of Article 8 apply only as specified in this section, except that Section 8-6 applies. No land or structure shall be erected, used, or arranged or designed to be used, in whole or in part, except in conformity with the provisions of this Section 40-12, or in conformity with the provisions of an approved Development Plan with respect to land or structures located in a PDA.

1. **Inclusion of Day Care Facilities.** The provisions of this paragraph apply only to Proposed Projects which exceed one hundred thousand (100,000) square feet of gross floor area. Any Proposed Project having a gross floor area, not including the floor area devoted to Residential Uses, which equals or exceeds one hundred thousand (100,000) square feet, shall devote to day care facilities an amount of floor area equal to the amount listed below in Table A of this Section. An Applicant for a Proposed Project subject to the

provisions of this paragraph may fulfill its obligations under this paragraph by (a) creating such facilities on-site; or (b) creating such facilities, or causing such facilities to be created, in the vicinity of the Proposed Project, within the South Station Economic Development Area, the Leather District, or Chinatown. Except for Proposed Projects in the Parcel to Parcel Linkage Development Area, any Proposed Project subject to the provisions of this section shall devote to on-site day care facilities an amount of floor area equal to at least four thousand (4,000) square feet or the minimum required square footage, whichever is less. The provision of day care facilities in accordance with this paragraph shall be in conformity with written regulations to be adopted by the Boston Redevelopment Authority after public notice and hearing. For the purposes of this paragraph, the term "day care facilities" includes the finish, furnishings, and equipment required for use of the floor area for such facilities, to enroll people for care, instruction, or recreation during regular business hours.

TABLE A

PROVISION OF DAY CARE FACILITIES

<u>Size of Proposed Project (Gross Square Feet)</u>	<u>Minimum Day Care Facilities (Gross Square Feet)</u>
100,000 up to 200,000	2% of gross floor area
200,000 up to 500,000	4,000
500,000 up to 1,000,000	8,000
More than 1,000,000	12,000

2. **Allowed Uses.** No land or structure in the South Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use except under the provisions of an approved Development Plan for land or structures in a PDA, or Section 40-12.3 and Article 6, Conditional Uses, unless such use is specified in the Development Plan or in this

Section 40-12.2. Any use so specified below shall be allowed as a matter of right, subject only to the provisions of the Development Plan or this Section 40-12.

- (a) New Economy Uses. Limited to basic research; research and development; product development or prototype manufacturing; biomedical technology; pharmaceutical research and development; research and medical laboratories.
- (b) Residential Uses. Limited to multifamily dwelling, artists' live/work space, apartment house, lodging or boarding house, temporary housing shelters, and any dwelling converted for more families, where structures after conversion will conform to this code. Residential uses include any affordable dwelling units, including but not limited to affordable dwelling units which are rental units, condominiums, or limited equity share cooperatives.
- (c) Restaurant and Entertainment Uses. Limited to the service or sale of food or drink for on-premises consumption; concert hall; theater, commercial or nonprofit (including motion picture or video theater, but not drive-in theater); art galleries, nonprofit or for profit; provided that, uses described in use item 38A are forbidden.
- (d) Office Uses. Limited to offices of community groups; business or professional offices; clinics; real estate, insurance, or other agency or government office; office building; post office; or bank (other than drive-in bank) or similar establishment.

- (e) Hotel or motel.
- (f) Group Care Residence, limited, as defined by clause 22B of Section 2-1, provided that: (i) no limited group care residence is within 1,000 feet of another limited group care residence; and (ii) a cooperation agreement exists relating to the location and operation of such facilities between the Boston Redevelopment Authority, the City of Boston, and the agency of the Commonwealth operating, licensing, or regulating such facilities.
- (g) Day care center, family care center, nursery school, kindergarten, elementary or secondary school, or community health center or clinic.
- (h) Recreational and Community Uses. Limited to private grounds for games and sports; other social, recreational, or sports center conducted for profit; private club (including quarters of fraternal or sororal organizations) operated for members only; adult education center or community center building; settlement house; the maintenance and operation of any amusement game machine in a private club, dormitory, fraternity, or sorority house, or similar noncommercial establishment, or in any commercial establishment.
- (i) Public Service Uses. Limited to public service pumping station, sub-station, or automatic telephone exchange, subject to St. 1956, c. 665, s. 2.

- (j) Wholesale Uses. Limited to office or display or sales space of a wholesale, jobbing, or distributing house; and provided that not more than twenty-five percent (25%) of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.
- (k) Service Uses. Limited to video or film production studio; barber shop; beauty shop; shoe repair shop; self-service laundry; pick-up and delivery station of laundry or dry-cleaner; tailor shop; hand laundry; dry-cleaning shop; framer's studio; caterer's establishment; photographer's studio; printing plant; taxidermist's shop; upholster's shop; carpenter's shop; electrician's shop; plumber's shop; radio and television repair shop; funeral home; undertaker's establishment; mortuary; research laboratory; radio or television studio; or similar use provided that in laundries and cleaning establishments, only nonflammable solvents are used for cleaning; animal hospital or clinic.
- (l) Retail Uses. Limited to store primarily serving the local retail business needs of the neighborhood; artist supply store; grocery store; department store, furniture store, general merchandise mart or other store serving the general retail business needs of a major part of the city, including accessory storage; provided that uses described in use item 34A are forbidden.
- (m) Institutional Uses. Limited to college or university granting degrees by authority of the Commonwealth; place of worship, monastery, convent,

or parish house; elderly care facility; nonprofit library or museum, not accessory to another institutional use; or clinic or professional offices accessory to a hospital or sanatorium whether or not on the same lot, provided that such use will occupy interior space being used by the same institution for another institutional use at the time such change is proposed; hospital, sanatorium, elderly care facility, orphanage, or similar institution not for correctional purposes, whether or not providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; clinic or professional offices accessory to a hospital or sanatorium whether or not on the same lot, providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; research laboratory.

- (n) Accessory Uses subject to the limitations and restrictions of Article 10, limited to: conference facilities; auditoria; classrooms; a garage or parking space for occupants, employees, students, and visitors, provided that such use is accessory to a residential use, a hotel or motel, a group care residence, or a dormitory, fraternity, or sorority house; a swimming pool or tennis court; the storage of flammable liquids and gases incidental to a lawful use; the manufacture, assembly, or packaging of products sold on the lot; the maintenance and operation of not more than four amusement game machines accessory to eating and drinking establishments; the keeping of animals, other than household pets, provided that every enclosure is sufficient to prevent a nuisance to any adjacent residences or eleemosynary institutions; the keeping of laboratory animals incidental to a conditional institutional use, provided

that all resulting noise, dust, fumes, gases, odors, and refuse matter are effectively confined to the lot or so disposed of as not to be a nuisance or hazard to public health or safety; in educational institutions with more than four hundred (400) full-time students, and in hospitals with more than fifty (50) beds, incidental uses and services ordinarily found in connection therewith and primarily for the patients and staff or students and faculty, when conducted wholly within a building and entered from within the building where there is but one building on the lot line where there is more than one building on a lot, unless accessory to a hospital or sanatorium or clinic which is an allowed use; and any use ancillary to, and ordinarily incident to, a lawful main use, provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is accessory.

- (o) Uses specified in an approved Development Plan for land or structures in a PDA.

3. **Conditional Uses.** No land or structure in the South Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use under the provisions of Article 6 unless such use is specified in this Section 40-12.3. The granting of a permit for any use so specified may be authorized conditionally by the Board of Appeal acting under the provisions of Article 6, subject to the regulations set forth in this Section 40-12. The continued right to a conditional use is dependent upon maintaining the character and extent of operations and structures.

- (a) – Residential Uses. Limited to temporary dwelling structure, orphanage, and any dwelling converted for more families, provided that, after conversion, any nonconformity as to floor area ratio is no greater than prior to conversion.
- (b) Group Care Residence. Unless otherwise allowed pursuant to paragraph 2(f) of this section.
- (c) Light Manufacturing Uses, except as allowed in Section 40-12.2(a); kennel or pound.
- (d) Parking lot or parking garage.
- (e) Wholesale Uses. Limited to accessory storage (other than of flammable liquids, gases, and explosives) in roofed structures or office or display or sales space of a wholesale, jobbing, or distributing house where more than twenty-five percent (25%) of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.
- (f) Fast Food Restaurant Uses. Limited to sale over the counter, not wholly incidental to a use listed under paragraph 2(c) or 2(l) of this section, of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out.

- (g) Rental motor vehicle and trailer agency accessory to a hotel or motel, provided that no rental vehicles or trailers are parked on the street and that exterior lighting is arranged to shine downward and away from residences.
- (h) The change of use of any residence to another use.
- (i) Transportation Uses. Limited to bus terminal, bus station, subway station or railroad passenger station, airline shuttle service.
- (j) Any use on a lot adjacent to, or across the street from, but in the same district as, a lawful use to which it is ancillary and for which it would be a lawful accessory use if it were on the same lot; provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is ancillary.
- (k) Institutional Uses. Limited to fraternity or sorority house or dormitory; trade, professional, or other school; penal or correctional institution; detention home; machine shop or other noisy activity accessory to a school, college, or university, adequately sound-insulated to protect the neighborhood from unnecessary noise; library or museum not conducted for profit and accessory to another institutional use not allowed pursuant to paragraph 2(m) of this section.
- (l) Accessory Uses. Limited to a garage or parking space for occupants, employees, customers, students, and visitors, such use not accessory to

a residential use, a hotel or motel, a group care residence, or a dormitory, fraternity, or sorority house.

4. **Forbidden Uses.** No land or structure in the South Station EDA shall be erected, used, or arranged or designed to be used, in whole or in part, for any use specified in the use item column of Table A of Section 8-7 if such use is not specified in Sections 40-12.2 and 40-12.3 as an allowed or conditional use, except for such nonconforming uses as may be allowed to be continued under the provisions of Article 9.

SECTION 40-13. Specific Design Requirements. Proposed Projects within the South Station EDA shall comply with the specific design requirements established in this section, or if located within a PDA, with the provisions of the approved Development Plan. Except as provided in Article 6A and Section 40-8.5, no Zoning Relief shall be granted from the provisions of this section.

1. **Street Wall Continuity.** The Street Wall of any Proposed Project shall be built:
 - (a) to be coextensive with at least eighty percent (80%) of the "Existing Building Alignment" of the block on which the Proposed Project fronts, established pursuant to Section 18-2 of this code; or
 - (b) to a depth from the street line equal to that of at least eighty percent (80%) of the Existing Building Alignment of either block adjacent to the block on which the Proposed Project is located, if there is no Existing Building Alignment of such block.

RECESSES ABOVE SECOND STORY*

<u>Maximum Depth</u>	<u>Maximum Aggregate Surface Area</u>
Fifteen (15) feet	Twenty percent (20%)

*Recesses do not include windows, which must be indented.

2. **Street Wall Height.** The "Street Wall Height" of Proposed Projects within the South Station Economic Development Area shall not exceed one hundred twenty-five (125) feet, except as limited further: (a) along Essex and Lincoln Streets, the Street Wall Height shall not exceed seventy (70) feet; and (b) along Bedford and Kingston Streets, the Street Wall Height shall not exceed one hundred (100) feet. The endwall of a street which is a cul-de-sac does not count as a street wall for the purposes of this Section 40-13.

3. **Setback Requirements.**

- (a) **Sky Plane Setbacks.** Other than decorative cornices and other surface ornamentation, every portion of a Proposed Project (including, but not limited to, mechanical equipment) above the Street Wall Height of such Proposed Project shall be set back by not less than the amount of the "Sky Plane Setbacks" established in Table C for the Street Wall Heights and building heights of one hundred fifty-five (155) feet and two hundred ninety-five (295) feet. Portions of a Proposed Project more than one hundred fifty-five (155) feet high should be treated in a manner to create a visually distinctive roof or other termination of the facade of the Proposed Project.

The amount of the Sky Plane Setback at various heights for each wall of a building depends on whether the particular wall faces on a

street, as identified below in Table B, or on a side lot line. The endwall of a street which is a cul-de-sac does not count as a Street Wall for the purposes of this Section 40-13.

TABLE B

STREETS ON WHICH SETBACKS ARE REQUIRED

Atlantic Avenue
Bedford Street
Essex Street

Kingston Street
Lincoln Street

**TABLE C
SKY PLANE SETBACKS**

Minimum Depth of Setback from Street Wall

<u>Street</u>	<u>Above Street Wall Height</u>	<u>Above 155' (Total Setback from Street Wall)</u>	<u>Above 295' (Total Setback from Street Wall)</u>
Atlantic Avenue	10'	20'	20'
Bedford Street	25'	50'	100'
Essex Street	5'	5'	15'
Kingston Street	35'	75'	125'
Lincoln Street	5'	5'	15'

The Sky Plane Setback provisions established in this paragraph shall not be applicable to the extent that, as a consequence of such provisions, the maximum possible gross floor area for any floor of a Proposed Project would be less than nine thousand (9,000) square feet.

- (b) The facade of a building may violate the setback requirements above the two hundred ninety-five (295) foot level, up to a maximum of fifty percent (50%) of total horizontal length of the facade.

SECTION 40-14. Off-Street Parking Not Required. Within the South Station EDA off-street parking facilities are not required in any Proposed Project.

SECTION 40-15. Off-Street Loading. Article 24 provides the regulations governing provision and design of off-street loading facilities for the use of any structure or land not subject to the provisions of Article 31, Development Review Requirements, or within a PDA, to the provisions of the Development Plan. The provision and design of off-street loading facilities for the use of any structure or land which is subject to the provisions of Article 31 shall be determined through the Development Review Requirements process, or, if located in a PDA, through the Development Plan approval process.

SECTION 40-16. Regulations. The Boston Redevelopment Authority may promulgate and amend from time to time regulations to administer this article.

SECTION 40-17. Severability. The provisions of this article are severable, and if any such provision or provisions shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this article.

APPENDIX B

Definitions

For the purposes of this article only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "Applicant" means any person or entity having a legal or equitable interest in a Proposed Project subject to the provisions of this article, as set forth in Section 40-4, or the authorized agent of any such person or entity.
2. "Development Plan" means the development plan required in Section 3.1A.a of this code, the approval of which plan is a prerequisite to the issuance of any building or use permit with respect to any building, structure or land within a Planned Development Area, as the same may be amended from time to time.
3. "Proposed Project" means the substantial demolition, erection, or extension of any structure or part thereof, or the change of use of any structure or land, for which the Applicant is required to obtain a building or use permit. A Proposed Project may proceed in phases, and may include more than one building, structure, or use.
4. "South Station Economic Development Area Plan" means the comprehensive plan, adopted by the Boston Redevelopment Authority pursuant to Chapter 652 of the Acts of 1960, Section 3 of Chapter 4 of the Ordinances of 1952, and Section 27D-18 of the code, which sets forth the planning policies, development controls, and design guidelines for the South Station Economic Development Area.
5. "South Station Economic Development Area" means the area depicted on the map in Appendix A and on Map 1C of this code.
6. "Street Wall" means the exterior wall or portion of the exterior wall of a Proposed Project that faces a street on which such Proposed Project is located, and is below the Street Wall Height, determined pursuant to Section 40-13.
7. "Zoning Relief" means any zoning variance, exception, conditional use permit, interim planning permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.

TAKEN UNDER ADVISEMENT
MAY 25, 1989

MEMORANDUM

JUNE 29, 1989

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: WILLIAM WHITNEY, ASSISTANT DIRECTOR OF URBAN
DESIGN AND DEVELOPMENT
LINDA BOURQUE, ASSISTANT DIRECTOR OF NEIGHBORHOOD
PLANNING AND ZONING
HOMER RUSSELL, DIRECTOR OF URBAN DESIGN
ERIC SCHMIDT, DEPUTY DIRECTOR OF SPECIAL PROJECTS

SUBJECT: PERMANENT ZONING PLANS FOR NORTH AND SOUTH STATION
ECONOMIC DEVELOPMENT AREAS

EXECUTIVE
SUMMARY:

Pursuant to Article 27D, the Downtown Interim Planning Overlay District, permanent zoning plans for the North and South Station Economic Development Areas (EDAs) are presented for petition to the Zoning Commission. The zoning plans provide for the large-scale development appropriate for the EDAs excellent transportation access. Anticipated land uses include a new sports arena at North Station, the city's first Parcel-to-Parcel Linkage project at South Station, and development in the emerging biomedical technology economy of both North and South Station. To encourage this development, a streamlined permitting process is proposed.

The North And South Station Economic Development Areas (EDAs) were established in the Downtown Interim Planning Overlay District (IPOD) enacted on September 25, 1987. The interim zoning set a maximum height limit of 400' and a maximum floor area ratio of 14 in the EDAs.

Significant progress in the plans for the EDAs has been made since enactment of the IPOD. With their ideal location for transportation access by road, rail, and to Logan Airport, the EDAs are excellent areas to site future development. Given the emerging demand in the 1990's for biomedical, research and development, and pharmaceutical development space, the use regulations for the EDAs emphasize development in these technologies. In addition, North Station will be the site of a new sports arena, and South Station will be the site of the city's first Parcel-to-Parcel Linkage project.

The North and South Station Economic Development Area permanent zoning was presented to the BRA Board on May 25, 1989. At that time, the zoning proposal was taken under advisement by the BRA Board.

Building Height and Floor Area Ratio (FAR)

The general building for the North Station EDA is 125' to 155', with an FAR of 8 to 10. These are a reduction from the IPOD limits, as the planning has identified with greater precision those areas appropriate for more intensive development.

The areas appropriate for denser development in the North Station EDA, are the New Boston Garden Development Area and the New Economy Development Area. The former is projected as the site of major mixed-use facility, including a new sports arena. The latter encompasses land along the new Nashua Street, where it is expected that biomedical uses and uses supportive of this emerging economy will be developed. A height limit of 400' and an FAR of 11 are proposed for the New Boston Garden Development Area, while a height limit of 250'-300' and FARs of 8 to 10 are proposed for the New Economy Development Area.

In the South Station EDA, new economy uses are proposed for the railroad air rights. Building heights of up to 400' would be permitted. A building height of 465' would be allowed on the Parcel-to-Parcel Linkage site, and an FAR of 14.

Streamlined Approval Process

To further encourage development in the EDAs, a streamlined approval process is proposed. The establishment of Planned Development Areas (PDAs) would be permitted. The Boston Redevelopment Authority would act on the PDA application within 60 days of its submission.

Once approved by the Boston Redevelopment Authority, the PDA development plan is subject to Zoning Commission approval. Unlike other PDAs, however, subsequent Board of Appeal approval of exceptions would not be required. The approved development plan would become the zoning regulation governing development in the PDA.

To further streamline the approval process, the development plan would provide sufficient basis for an adequacy determination by the Boston Redevelopment Authority for the purposes of Development Review Requirements, Article 31 of the Zoning Code. Any document submitted under Article 31 (i.e., a Project Notification Form or Draft or Final Project Impact Report) could be deemed the development plan, as well.

Zoning Certainty

To provide zoning certainty for the major phased projects contemplated for the EDAs, the issuance of a building permit for the first phase would provide vested rights for the entire project. In this way, financing of long-term projects can proceed with less risk of unexpected regulatory change.

Planned and Development Criteria

To qualify for the streamlined PDA approval process, projects must meet certain planning and development criteria. These criteria include requiring that the project: diversify Boston's economy through investment in biomedical industry; construct major civic facilities, such as a multimodal transit center; create or retain a significant number of jobs in the city; or, in the case of the North Station EDA, construct a new sports arena, and, in the South Station EDA, construct a major project in accordance with the city's Parcel-to-Parcel Linkage program guidelines.

Day Care Facilities

In accord with the city policy regarding day care facilities in Large-Scale Development projects, the zoning plans require that projects of more than 100,000 square feet provide day care facilities. The provision of these facilities, in an amount equal to approximately 1% to 2% the Proposed Project's floor area, will permit broader participation in Boston's expanding and diversifying economy.

Recommendation

The zoning plans, proposed Article 39s and 40 of the Zoning Code, include appropriate provisions as to project design. The zoning plans would supplant the outmoded underlying zoning for the EDAs, which requires heavy industrial uses. Given the opportunities for large-scale development which will diversify the city's and region's economy, which will result in the construction of a new sports arena, and which will further the city's land disposition policies, staff recommends that the Authority authorize the Director to petition the Zoning Commission to adopt the proposed zoning plans for the North and South Station EDAs.

Appropriate votes are as follows:

VOTED: That the Authority hereby authorizes the Director to petition the Zoning Commission for adoption of proposed Article 39, the North Station Economic Development Area, in substantially the form attached hereto and as a Downtown District; and

FURTHER
VOTED: That the Authority hereby authorizes the Director to petition the Zoning Commission for adoption of proposed Article 40, the South Station Economic Development Area, in substantially the form attached hereto and as a Downtown District.